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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,909	10/18/2001	Jude LaCour	LACO-1-1001	9020

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EXAMINER

LE, LINH GIANG

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 03/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/032,909

Applicant(s)

LACOUR, JUDE

Examiner

Linh-Giang Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Notice to Applicant

1. The communication is in response to the application filed 18 October 2001. Claims 1-20 are pending.

Specification

2. The disclosure is objected to because of the following informalities:
incorrect identifier. On page 4, line 1, applicant refers to "doctor 40" of figure 1. However, the figure indicates only "doctor 30" and not "doctor 40." Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mayoud (5,845,255) in view of Stasny (2003/0074234).

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5. As per claim 1, Mayoud discloses a system for processing a customer prescription by a user via a remote client (Mayoud; Col. 1, Technical Field), the system comprising:

- a. A server coupled to a network (Mayoud; Col. 1, Technical Field);
and
- b. A memory coupled to the server, the memory containing stored programming instructions that, when executed by the server, cause the server to (Mayoud; Col. 7, lines 30-45):
 - i. Present, on a display associated with the client, information related to a prescription request (Mayoud; Col. 7, lines 46-67 to Col.8, lines 1-9);

Mayoud fails to expressly teach receiving user approval or disapproval of the prescription request. However, this is well known in the art as evidenced by knowledge generally available to one having ordinary skill in the art. Mayoud does teach allowing a physician user selecting and prescribing drugs and dosages off of the prescription creation screen (Mayoud; Col. 20, line 5-7). It is respectfully submitted that one skilled in the art could reasonably be expected to draw the inference that when a physician user selects and prescribes a drug the physician user has given approval of the prescription request. Typically, a physician user would not prescribe a drug unless the physician has verified the prescription in order to avoid erroneously prescribing medication. It is thus implied that the physician user has given approval or disapproval. Therefore, it would have been an obvious modification of the system taught by Mayoud to

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include user approval or disapproval with the motivation of avoiding erroneously prescribing medication.

Mayoud also fails to expressly teach processing the prescription request based upon the user approval or disapproval. However, Mayoud does teach transmitting an electronic prescription across a network after a physician presses the "Send Rx" button (Mayoud; Col. 27, lines 30-39). It is respectfully submitted that one skilled in the art could infer that a physician would not transmit an electronic prescription request without implicitly approving or disapproving the prescription request. Again, a physician would want to avoid erroneously prescribing medication to a customer. Therefore, it would have been an obvious modification of the system taught by Mayoud to include the step of processing the prescription request based upon the user approval or disapproval with the motivation of avoiding erroneously prescribing medication to a customer.

Furthermore, it is noted that applicant claims a system requiring user approval *or* disapproval. Thus, it is not necessary for the prior art to teach both an approval *and* disapproval step.

Moreover, this feature is well known in the art as evidenced by Stasny. Stasny discloses receiving user approval or disapproval of a prescription request. In particular, Stasny discloses that a physician must authorize (i.e. approve or disapprove) a customer refill request (Stasny; Figure 9 and Page 7, paragraph 77). Thus it would have been an obvious modification of the system taught by Mayoud to include the user approval or disapproval step in Stasny with the

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motivation of maintaining the health of a customer in an efficient and effective manner (Stasny, Page 2, paragraph 14).

6. As per claim 2, Mayoud discloses a system wherein the information presented relates to the prescription request comprising medical information related to the customer (Mayoud; Col. 8, lines 33-44).

7. As per claim 3, Mayoud discloses a system where the information presented relates to the prescription request further comprising a customer medical history (Mayoud; Col. 41, lines 42-63).

8. As per claim 4, Mayoud fails to teach a system where the stored programming instructions further cause the server to send an approval or disapproval email to the customer. Mayoud only discloses a prescriber communicating via e-mail with third parties data relevant to a patient's diagnosis and therapies (Mayoud; Col. 45, lines 1-8). However, this feature is well known in the art as evidenced by Stasny. In particular, Stasny discloses a physician authorizing a refill, or in other words, approving or disapproving the request (Stasny; Figure 9 and Page 7, paragraph 77). It would have been an obvious modification of the e-mail feature taught in Mayoud to include the approval or disapproval in Stasny with the motivation of maintaining the health of a customer in an efficient and effective manner (Stasny, Page 2, paragraph 14). By notifying

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the customer via e-mail regarding approval or disapproval, the customer can quickly find out whether he or she will be able to get the medication requested.

9. As per claim 5, Mayoud discloses a system wherein the stored programming instructions further cause the server to request from the client a user name and password, and to determine whether the user is an authorized user as a function of the user name and password (Mayoud; Col. 10, lines 11-19).

10. As per claim 6, Mayoud discloses the user is a doctor (Mayoud; Col. 13, line 27).

11. As per claim 7, Mayoud discloses a method for processing a customer prescription request by a user (Mayoud; Col. 1, Technical Field), the method comprising:

- a. providing the customer prescription request to the user accessing a server via remote client over a network (Mayoud; Col. 7, lines 30-45);
- b. providing customer medical information to the user over the network (Mayoud; Col. 8, lines 33-44);

Mayoud fails to expressly disclose receiving a user approval or disapproval based upon the customer prescription request and customer medical information and processing the customer prescription request based upon the user approval or disapproval. As stated earlier, Mayoud does not expressly

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teach user approval or disapproval. However it would be an obvious modification to the method taught by Mayoud to include user approval or disapproval with the motivation of avoiding erroneously prescribing medication. It would further be an obvious modification of Mayoud to include the approval or disapproval step taught by Stasny with the motivation of maintaining the health of a customer in an efficient and effective manner (Stasny, Page 2, paragraph 14).

12. As per claim 8, Mayoud discloses the user is a doctor (Mayoud; Col. 20, line 7).

13. As per claim 9, Mayoud discloses, the medical information presented comprises a customer medical history (Mayoud; Col. 41, lines 42-63).

14. As per claim 10, Mayoud discloses a method comprising requesting a password from the doctor before providing the customer medical information or the customer prescription request to the doctor (Mayoud; Col. 10, lines 11-19).

15. As per claim 11, Mayoud discloses a method wherein the customer prescription request is submitted to the server by the customer accessing the server via a client over the network (Mayoud; Col. 20, line 5-13).

16. As per claim 12, Mayoud discloses a method wherein the customer medical information is submitted to the server by the customer accessing the

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server via a client over the network (Mayoud; Col. 7 lines 30-45 and Col. 44, lines 28-42).

17. As per claim 13, Mayoud discloses a method wherein the customer prescription request is submitted via email (Mayoud; Col. 45; lines 1-8).

18. As per claim 14 Mayoud discloses a method wherein the customer medical information is submitted via email (Mayoud; Col. 41, lines 64-67 and Col. 42, lines 1-8).

19. As per claim 15, Mayoud discloses a method wherein the customer medical information is submitted to the server by the doctor over the network (Mayoud; Col. 44, lines 19-42).

20. As per claim 16, Mayoud fails to expressly disclose a method wherein processing the prescription request further comprises sending an email to the customer indicating whether the prescription request has been approved or declined. However, this feature is well known in the art as evidenced by knowledge generally available to one having ordinary skill in the art. Mayoud does disclose a prescriber communicating via e-mail with third parties data relevant to a patient's diagnosis and therapies (Mayoud; Col. 45, lines 1-8). It is respectfully submitted that information regarding whether a prescription request has been approved or declined is relevant to a patient's diagnosis. Therefore it

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would have been an obvious modification of the method taught by Mayoud to include the step of sending an email to the customer indicating whether the request has been approved or declined with the motivation of giving the customer information relevant to the diagnosis.

21. As per claim 17, Mayoud does not expressly disclose a method wherein processing the prescription request further comprises shipping a requested prescription drug to the customer. Mayoud only discloses transmitting an electronic prescription across a network for fulfillment by a specified pharmacy (Mayoud; Col. 27, lines 30-50). However, the feature of shipping a requested prescription is well known in the art as evidenced by Stasny. In particular, Stasny discloses sending a product to a customer at their listed address (Stasny; Page 9, paragraph 99). It would have been an obvious modification of the method disclosed in Mayoud to include the shipping feature of Stasny with the motivation of increasing a customer's involvement and influence in making personalized pharmaceutical decisions (Stasny; Page 2, paragraph 22).

22. As per claim 18, Mayoud discloses a system for processing a customer prescription request by a user via a remote client (Mayoud, Col. 1, Technical Field), the system comprising:

- a. a database containing the customer prescription (Mayoud, Col. 8, lines 17-32);

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- b. a database containing medical information associated with a customer requesting the customer prescription (Mayoud, Col. 8, lines 17-32);
- c. a means for presenting the customer prescription to the user over a network (Mayoud, Col. 7, lines 46-56); and
- d. a means for processing a user indication to approve or decline the customer prescription request (Mayoud, Col. 7, lines 30-45).

23. As per claim 19, Mayoud discloses a system further comprising a means for informing the customer whether the prescription request has been approved or declined (Mayoud; Col. 45, lines 1-8).

24. As per claim 20, Mayoud discloses, system further comprising a means to ensure that the user is a doctor authorized to approve or decline the customer prescription request (Mayoud; Col. 10, lines 11-19).

Conclusion

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a pharmaceutical dispensing system (5,907,493); method and system for dispensing, tracking and managing pharmaceutical trial products (5,832,449);

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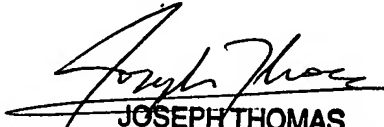
prescription verification system (6,687,676); online prescription service system and method (2005/0182656); system and method for automated prescription management (2002/0052760); and providing patient-specific drug information.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh-Giang Michelle Le whose telephone number is 571-272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

W 3/8/06


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER